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12 State Farm Fire and Casualty Company

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 SUMMIT RESOURCES, LLC a limited
11 liability company,

12 Plaintiff,

PETITION FOR REMOVAL

13 v.
14 STATE FARM FIRE AND CASUALTY
15 COMPANY; and DOES 1 to 10,
inclusive,

16 Defendants

17 Defendant State Farm Fire and Casualty Company, reserving all rights
18 defenses exceptions and claims and without waiver thereof, removes this action
19 from the District Court for the State of Nevada, County of Clark, to the United
20 States District Court for the District of Nevada pursuant to 28 U.S.C. section
21 1441(a), *et seq.* In support of this petition, State Farm Fire and Casualty Company
22 alleges as follows:

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PLLC



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I.
RELEVANT BACKGROUND

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3 1. Plaintiff Summit Resources, LLC commenced this matter styled
4 *Summit Resources, LLC v. SFF&CC* in the Eighth Judicial District Court for the
5 State of Nevada in and for the County of Washoe as case number CV20-01103,
6 Department D1 on July 21, 2020. A true and correct copy of the summons and
7 complaint is attached hereto as **Exhibit A**.

8 2. Plaintiff served his summons and complaint on Defendant by serving
9 the materials personally to the Nevada Department of Business and Industry,
10 Division of Insurance. The Division effected service of process August 25, 2020. A
11 true and correct copy of the affidavit of service is attached hereto as **Exhibit B**.

12 3. This is a civil action for Breach of Contract, Contractual Breach of the
13 Covenant of Good Faith, Tortious Breach of the Covenant of Good Faith and Fair
14 Dealing, and Unfair Claims Practice NRS 686A.

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II.
CITIZENSHIP

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17 4. The district courts of the United States have original jurisdiction of
18 this action by virtue of 28 U.S.C. section 1332 because there is complete diversity of
19 citizenship between the parties.

20 5. State Farm Fire and Casualty Company is now, and was at the time
21 the State Court action was filed, a duly licensed corporation incorporated in the
22 State of Illinois with its principal place of business in Bloomington, Illinois. It has
23 never been a citizen of the State of Nevada.

6. State Farm Fire and Casualty Company is informed and believes that Plaintiff is now, and was at the time the State Court action was filed, is incorporated and has its principal place of business in Nevada.

7. The DOE Defendants in this action have not been identified and are merely nominal parties without relevance to the action. Therefore, the citizenship of defendants sued under fictitious names shall be disregarded in accordance with 28 U.S.C. section 1441 (b).

III. **REMOVAL JURISDICTION**

8. Although State Farm Fire and Casualty Company denies the allegations in the complaint, it is apparent from substantive allegations, along with information contemporaneously submitted by plaintiff during the handling of the claim, that the matter in controversy exceeds \$75,000, exclusive of interest and costs because:

a. This action arises from plaintiff's claim for breach of contract, breach of the covenant of good faith and fair dealing, and violations of NRS 686A. The policy's applicable limit for property damage was \$100,000. Plaintiff alleges at paragraph 80 of its complaint that its economic loss is \$92,380.26, which already exceeds the amount in controversy requirement for diversity jurisdiction.

b. Factoring in the potential for general and special damages arising from the claim of bad faith and demand for punitive damages, State Farm Fire and Casualty Company is informed and believes that plaintiff will demand more than \$75,000 in this lawsuit. Moreover, plaintiff seeks to recover attorney's



1 fees as damages in this matter, further stretching the amount in controversy
2 beyond the jurisdictional minimum.

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5 **IV.**
TIMELINESS OF REMOVAL PETITION

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9. Plaintiff filed the complaint on July 21, 2020, and served it on August 19, 2020. Removal is timely as State Farm Fire and Casualty Company filed this notice of removal within thirty days of service, and within one year of the complaint's filing. 28 U.S.C. § 1446(b).

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V.
VENUE

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10. Venue is proper in the United States District Court, Northern District of Nevada, as plaintiff filed the Complaint in the District Court for the State of Nevada, in and for the County of Washoe. 28 U.S.C. § 1331.

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11. The adverse parties received written notice of the filing of this Notice of Removal, and State Farm Fire and Casualty Company filed a copy with the Clerk of the District Court in and for the state of Nevada, County of Washoe, pursuant to 28 U.S.C. section 1446 (d).

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1 WHEREFORE, State Farm Fire and Casualty Company prays that this
2 action be removed to the United States District Court, District of Nevada, from the
3 District Court of Nevada, County of Clark.

4 DATED this 1st day of September, 2020.

5 **CARMAN COONEY FORBUSH PLLC**

6 By



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8 SEAN D. COONEY, ESQ.

9 SEAN FORBUSH, ESQ.

10 Attorneys for Defendant

11 State Farm Fire and Casualty Company



12 CARMAN COONEY FORBUSH
13 PLLC

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CERTIFICATE VIA CM/ECF

Pursuant to FRCP 5, I hereby certify that I am an employee of CARMAN COONEY FORBUSH PLLC, and that on September 1st, 2020, I caused to be served via CM/ECF a true and correct copy of the document described herein.

Document Served:

PETITION FOR REMOVAL

Person(s) Served:

Mark G. Simons, Esq.
SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Suite F-46
Reno, Nevada 89509
Attorney for Plaintiff,
Summit Resources, LLC

/s/ Jennifer Velasquez

CARMAN COONEY FORBUSH PLLC



CARMAN COONEY FORBUSH